

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TYLIER WARD,

Plaintiff,

v.

UNKNOWN LOVEBERRY, et al.,

Defendants.

Case No. 1:22-cv-1033

HON. JANE M. BECKERING

**ORDER**

This is a civil rights action brought by a state prisoner under 42 U.S.C. § 1983. Defendant Kyle Mihm (named as “Kyle Mihms”) filed a Motion for Summary Judgment on the Basis of Exhaustion (ECF No. 21). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (ECF No. 32) on April 16, 2024, recommending that this Court grant the motion and that Plaintiff’s remaining claims against Defendant Mihm be dismissed without prejudice for failure to exhaust administrative remedies. The Report and Recommendation was duly served on the parties that have appeared in this matter to date.<sup>1</sup> No objections have been filed. See 28 U.S.C. § 636(b)(1). Accordingly:

**IT IS HEREBY ORDERED** that the Report and Recommendation (ECF No. 32) is APPROVED and ADOPTED as the Opinion of the Court.

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<sup>1</sup>Service of the Report and Recommendation on Plaintiff was returned twice, each marked “out to court” (ECF Nos. 33 & 34). According to the Michigan Department of Corrections website (<https://mdocweb.state.mi.us/OTIS2/otis2profile.aspx?mdocNumber=728439>), Plaintiff was released to court on a writ on October 25, 2023. Plaintiff has failed to keep the Court apprised of his current address. Defendant Unknown Loveberry has not yet appeared in this case.

**IT IS FURTHER ORDERED** that the Motion for Summary Judgment on the Basis of Exhaustion (ECF No. 21) is GRANTED. Plaintiff's remaining claims against Defendant Mihm are DISMISSED without prejudice for failure to exhaust administrative remedies.

Defendant Mihm is terminated from this action.

Dated: June 3, 2024

/s/ Jane M. Beckering  
JANE M. BECKERING  
United States District Judge